SINGLE BENCH (3)

C.S. 1001

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Writ Petition No. 5127 of 2005

PETITIONER:

RECEIVED-COPY
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Donu Das Dhakate,
S/o Shri Shyam Das Dhakate,
Aged about 36 years,
Working as Assistant Director
(Technical) in the Office of
Directorate of Rural Industry
(Handloom), Sonakhan
Bhawan, Ring Road, Raipur,
R/o 419, Sundar Nagar,
Raipur, Chhattisgarh.

- Versus -

RESPONDENTS:

P.R. No. 5272/05
Vinay Pandey
7/10/05

1. State of Chhattisgarh,
Through the Secretary,
Department of Rural Industry,
Mantralaya, D.K.S. Bhawan,
Raipur, Chhattisgarh.

2. The Director,
Gram Udyog Sanchalanalay
(Handloom), Sonakhan
Bhawan, Ring Road,
Raipur, Chhattisgarh.

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT/WRITS, DIRECTIONS ETC., IN THE NATURE OF MANDAMUS, CERTIORARI AND/OR ANY OTHER SUITABLE WRIT OF LIKE NATURE

(41)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 5127/05 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	24/10/2005 Shri Prashant Jaiswal, Senior Advocate with Shri Vinay Pandey, learned counsel for the petitioner. Shri Bhaskar Pyasi, Panel Lawyer for respondent Nos.1 and 2. Heard. The petitioner, who is presently working on the post of Assistant Director (Technical) in the Office of Directorate of Rural Industry (Handloom), Sonakhan Bhawan, Ring Road, Raipur has filed this Writ Petition for quashing of the show cause notice contained in Annexure P-8. The case of the petitioner is that he belongs to 'Halba' caste, which is Scheduled Tribe. A complaint regarding the forged caste certificate was made vide Annexure P-5 by the President, Chhattisgarh Adivasi Vikas Parishad to the Secretary, Gram Udhyog Vibhag, D.K. Bhawan Mantralaya, Chhattisgarh , Raipur. On the basis of this information, directions were issued from the Secretariat on 4/7/2005 to all the concerned and it was directed that the enquiries be instituted against such persons working in the Department holding the posts reserved for the members of Scheduled Tribe (Annexure P-7). In pursuance of the aforesaid orders issued by the Secretariat, a show cause notice on 08/07/2005	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

(Annexure P-8) has been issued to the petitioner and the petitioner has been called upon to furnish necessary information relating to his caste and his caste certificate. It is against this action taken by the concerned authority i.e. Dy. Director, Gram Udyog Sanchalanalay (Handloom), Raipur, the petitioner has filed this writ petition.

It has been held by the Apex Court while dealing with the matter of ***Special Director and another vs. Mohd. Ghulam Ghouse and another, 2004 AIR SCW 416*** that unless, the High Court is satisfied that the show cause notice was totally non est in the eye of law for absolute want of jurisdiction of the authority to even investigate into facts, writ petitions should not be entertained for the mere asking and as a matter routine, and the writ petitioner should invariably be directed to respond to the show cause notice and take all stands highlighted in the writ petition. Whether the show cause notice was founded on any legal premises is a jurisdictional issue which can even be urged by the recipient of the notice and such issues also can be adjudicated by the authority issuing the very notice initially, before the aggrieved could approach the Court.

In view of the aforesaid legal position, I am not inclined to interfere in this writ petition with the aforesaid show cause notice issued to the petitioner.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... WP 5127/05 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	The petitioner would be at liberty to appear before the concerned authority and to submit his reply, if not submitted, and raise all his grounds which he is highlighting before this Court. In fact, this petition at the stage of issuance of show cause notice is premature. The petition has no merit and the same is disposed of with the observations as aforesaid. Consequently, IA No.8995/2005 for urgent hearing and M(W)P No.4150/2005 stands disposed of. **Sd/-** **Sunil Kumar Sinha** **Judge**	